



Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Robert R. Corbin

April 30, 1979

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ARIZONA ATTORNEY GENERAL

Mr. Charles Moody, Chairman
Division I, Board of Tax Appeals
1645 West Jefferson
Phoenix, Arizona 85007

Re: I79-125 (R77-132)

Dear Mr. Moody:

Your letter to this office of April 5, 1977, reads as follows:

Under the provisions of ARS 42-142A the Board of Tax Appeals is authorized to employ an attorney. The Board has periodical requirements for legal services. The Board proposes to enter into a contract with an attorney for a fixed period of time at an hourly rate with a ceiling for such legal services as it will require during that period.

The Board requests an opinion from the Attorney General's office on the question of whether such a contract is subject to the provisions of ARS 41-1051 or whether such a contract would fall within the "contracts for outside professional services that are otherwise regulated by law" exception to ARS 41-1051.

We think that your interpretation of the Board's power relative to the hiring of outside counsel under A.R.S. § 42-142.A is incorrect.

A.R.S. § 42-142.A provides, in part, as follows:

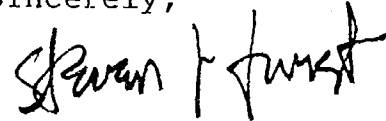
[U]pon request of the board, the attorney general shall designate, for such time and purposes as the board requires, an attorney, acceptable to the board, whose compensation shall be fixed and paid by the board. (Emphasis added.)

Mr. Charles Moody
April 30, 1979
Page 2

Although the Board may initiate a request for an attorney, only the Attorney General has the authority to designate the attorney, subject to the Board's approval. A.R.S. § 42-142.A does not authorize the Board to contract independently for legal services.

Inasmuch as the Board is not authorized to secure outside legal counsel, independently, the issue regarding compliance with A.R.S. § 41-1051 et seq. is not your concern. Rather the concern is that of the Attorney General.¹

Sincerely,



STEVEN J. TWIST
Acting Attorney General

BC/mm

1. In Attorney General's Opinion No. 75-9 (R-11), we dealt with the question you pose but not in light of the provisions of A.R.S. § 42-142.A. In that opinion we interpreted subsection C of A.R.S. § 41-1051 "as removing from coverage under the act only those contracts for outside professional services that are regulated by other provisions of law in a manner that is contrary to or inconsistent with the procedures established in the act." We think that a law which merely authorizes the procurement of legal services without setting forth detailed procedures contrary to or inconsistent with the procedures set forth in A.R.S. §§ 41-1051, et seq., is insufficient to trigger the exemption provision of A.R.S. § 41-1051.C. We determined in Opinion 75-9 that A.R.S. §§ 18-109, 41-191, 41-191.02, 41-191.04 and 41-192 did not set forth contrary or inconsistent procedures and, therefore, contracts with lawyers for outside professional services were subject to the provisions of A.R.S. § 41-1051. We likewise feel, for the reasons set forth above and in Attorney General Opinion 75-9 (R-11), that the provisions of A.R.S. § 42-142.A are not contrary to or inconsistent with the procedures established by A.R.S. §§ 41-1051, et seq. and a contract entered into by the Attorney General to provide outside legal services to the Board would not be "otherwise regulated by law" and therefore would not be exempt from the requirements of A.R.S. § 41-1051.